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5 UNITED STATES DISTRICT COURT  
6 WESTERN DISTRICT OF WASHINGTON  
7 AT SEATTLE

8 WILLIAM M. HENDERSON,

9 Plaintiff,

10 v.

11 MICHAEL J. ASTRUE, Commissioner of  
Social Security,

12 Defendant.

Case No. C11-1394-RAJ-BAT

**REPORT AND  
RECOMMENDATION**

13 William M. Henderson brought an action seeking review of the denial of his application  
14 for Supplement Security Income. Dkt. 4. The Commissioner has filed a motion to remand the  
15 case for further administrative proceedings pursuant to sentence six of 42 U.S.C. § 405(g). Dkt.  
16 11. The Commissioner requests remand because the recording(s) of the hearing held on April  
17 19, 2007, cannot be located. The Commissioner proposes that upon remand, the Appeals  
18 Council will continue to search for the missing recording and that if it cannot be located in a  
19 reasonable period of time the Appeals Council will remand the case for a de novo hearing.  
20 Plaintiff has no objection to the Commissioner's motion. Dkt. 12.

21 The Court has reviewed the motion and record and recommends as follows:

22 (1) The Court should set a deadline for 90 days from the date of this Report and  
23 Recommendation, i.e., **April 12, 2012**, to find the missing recording.

1 (2) If the Commissioner locates the missing recording before that date, the  
2 Commissioner should so notify the Court and should file an answer and administrative record, or  
3 other appropriate responsive pleading, no later than that date. The Court should re-refer the case  
4 to the undersigned United States Magistrate Judge and the case should proceed in the usual  
5 manner.

6 (3) If the Commissioner has not located the recording by that date, the case should be  
7 remanded to the Commissioner for further administrative proceedings pursuant to sentence six of  
8 42 U.S.C. § 405(g). On remand, the Commissioner should conduct a de novo hearing. The  
9 Court should retain jurisdiction of the case.

10 A proposed order accompanies this Report and Recommendation. Objections, if any, to  
11 this Report and Recommendation must be filed and served no later than **January 27, 2012**. If no  
12 objections are filed, the matter will be ready for the Court's consideration on **February 3, 2012**.  
13 If objections are filed, any response is due within 14 days after being served with the objections.  
14 A party filing an objection must note the matter for the Court's consideration 14 days from the  
15 date the objection is filed and served. Objections and responses shall not exceed twelve pages.  
16 The failure to timely object may affect the right to appeal.

17 DATED this 13th day of January, 2012.

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20 BRIAN A. TSUCHIDA  
21 United States Magistrate Judge  
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